

REMARKS

At the outset, Applicant would like to thank the Examiner for his assistance during the telephonic interview on December 22, 2003. In accordance with the above-identified telephonic interview, Applicant has amended the application to better define over the prior art, and to place the application, as a whole, into *prima facie* condition for allowance at this time. Applicant submits that substantial care has been taken to avoid the introduction of any new subject matter into the application as a result of the foregoing amendments.

Claims 19 and 37 have been rejected under 35 U.S.C. §102(b) as being anticipated by EP 612826. Applicant has amended independent claims 19 and 37 so that "forming the polymer chains and cross-linking are not substantially one in the same reaction." As was discussed with and agreed to by the Examiner during the telephonic interview, claims 19 and 37, as amended, include subject matter that is neither anticipated nor rendered obvious by EP 612826. Accordingly, Applicant respectfully submits that the Examiner's basis for rejection of claims 19 and 37 has been overcome and reconsideration and withdrawal of the 35 U.S.C. §102(b) rejection based upon EP 612826 are respectfully requested.

Claims 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, 39, 41, 43, 45, and 47-51 have been rejected under 35 U.S.C. §103(a) as being unpatentable over EP 612826. As was discussed with and agreed to by the Examiner during the telephonic interview, claims 47-51, as previously presented, include subject matter that is neither anticipated nor rendered obvious by EP 612826. In particular, independent claim 47 requires that "the polymer chains are formed prior to cross-linking by polymerization of at least one monomer." Inasmuch as the above-identified language was deemed patentably distinct over EP 612826 in corresponding U.S. Patent No. 5,928,572, Applicant respectfully submits that rejection under 35 U.S.C. §103(a) based upon

EP 612826 is the result of a typographical error on the part of the PTO, and, in turn, improper. As was further discussed with and agreed to by the Examiner during the telephonic interview, independent claims 3, 11, 19, 29, and 37, as amended, include subject matter that is neither anticipated nor rendered obvious by EP 612826. Accordingly, Applicant respectfully submits that the Examiner's basis for rejection of the above-identified independent claims and all associated dependant claims has been overcome and reconsideration and withdrawal of the 35 U.S.C. § 103(a) rejection based on EP 612826 are respectfully requested.

Claims 3-51 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-101 and 1-20 of U.S. Patent Nos. 5,928,572 and 6,248,263, respectively. Solely for the purpose of expediting prosecution of the present application, and without, in any way, conceding to the Examiner's rejection, Applicant herewith submits terminal disclaimers which disclaim the terminal part of the statutory term of any patent granted on the present application, which would extend beyond the expiration date of the full statutory term of U.S. Patent Nos. 5,928,572 and 6,248,263. In accordance with the Fee Transmittal enclosed herewith, Applicant has authorized the statutory disclaimer fee in the amount of \$110.00, pursuant to 37 CFR § 1.20(d), to be paid via PTO Form 2038.

Applicant has added 18 new dependant claims (52-69), and submits that the specification is replete with support of the same, including, but not limited to, Example 12. Accordingly, Applicant herewith submits PTO 2038 Form authorizing a charge in the amount of \$324.00 for new dependent claims 52-69.

In light of the foregoing, Applicant respectfully submits that the application is in *prima facie* condition for allowance at the present time. Accordingly, Applicant respectfully requests reconsideration of the present application and passage toward issuance thereof.

If any other charges or fees must be paid or credited in connection with this communication, they may be paid out of our Deposit Account No. 50-2131.

Should anything further be required a telephone call to the undersigned is respectfully solicited.

Respectfully submitted,

KING & JOVANOVIC, PLC

Dated: 12/22/03

William L. King III
William L. King III
Reg. No. 46,830

KING & JOVANOVIC, PLC
170 College Avenue, Suite 230
Holland, Michigan 49423
Phone (616) 355-0400
Facsimile (616) 355-9862